

MASSACHUSETTS RULES OF CIVIL PROCEDURE

RULE 30A. AUDIO-VISUAL DEPOSITIONS AND AUDIOVISUAL EVIDENCE

Reporter's Notes--2017

Since the 1980s, the Massachusetts Rules of Civil Procedure have provided for two types of audio-visual depositions. The first is an audio-visual deposition by leave of court or by stipulation of the parties under Rule 30A(a)-(k). The second is an “audio-visual expert witness deposition for trial” under Rule 30A(m). Rule 30A(m) allows a party to depose a treating physician or expert witness whom the party intends to call at trial as his or her own witness without the need to obtain leave of court or a stipulation and to use that deposition at trial in lieu of live testimony. Rule 30A(m) does not apply to another party’s treating physician or expert.

The 2017 amendments to Rule 30 and Rule 30A deal with the first type of audio-visual deposition and make no change to the Rule 30A(m) deposition. The changes allow audio-visual depositions as a matter of right, making Massachusetts practice consistent with the approach in other jurisdictions and consistent with the Federal Rules of Civil Procedure. The amendments recognize the advantages of audio-visual depositions in addition to written transcripts of depositions.

Rule 30A(a). Rule 30A(a) allows a party as a matter of right to record a deposition by stenographic and audio-visual means. The party who chooses to have testimony recorded by stenographic and audio-visual means is required to bear the cost of the audio-visual recording. A party who requests a copy of the audio-visual recording is required to bear the cost of a copy of the recording.

Rule 30A(b). Prior to amendment, Rule 30A(b) precluded service of a notice of taking of an audio-visual deposition prior to six months after commencement of the action. The six-month provision has been deleted by virtue of the 2017 amendments.